

*In attendance: Jean Rolfs, Brenda Shipley, Charles Tucker, Joyce Babin, Ray Fulmer, T.R. Brixey, Jack Gooding, Bill Clark and Sherry Daves.*

**Announcements::** Chuck Tucker mentioned that the judges are looking at revising the Local Rules. If you have suggestions, please let one of the judges, Chuck, or Jean know, and they will pass the information along to the judges. Chuck also said the judges are looking at the Debtor's Monthly Operating Report in Chapter 11 cases to determine whether to keep using the current accrual basis of accounting, or to change to a cash basis. Chuck believes the accrual method works best, but encouraged anyone with an opinion on this issue to let the judges, Chuck, or Jean know.

Chuck also addressed measures his office has taken to improve the quality of the 341(a) meeting tapes.

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**Issue:** Attorneys are receiving notice from both the court via e-mail and the Bankruptcy Noticing Center (BNC) via fax, e-mail, or paper, depending upon their selection at BNC. Staff time to sort through duplicates is inefficient.

**Solution:** In order to alleviate duplicate noticing, attorneys should rely on the e-mails sent by the court, not by BNC. Attorneys should contact BNC at 1-800-BNC-5055 and request that they receive their bankruptcy notices via e-mail. Once this request has been submitted, create a "rule" on your e-mail account to automatically delete or move BNC e-mails out of your Inbox. Please note that this solution leaves you with court e-mails, which may not include the hyperlink (see below).

Another item which may cause confusion is when hyperlinks to notices are not available in the court's e-mails. Currently, ECF programmers are working on a problem with "individual" e-mails which inhibits the creation of a hyperlink to notices produced by the court. This same issue is not a problem for "summary" e-mails. That does not mean, however, that every hyperlink will work in every "summary" e-mail. Notices docketed by trustees frequently require court interaction before being generated. If this interaction does not take place the same day of the filing, the e-mail generated will not contain the link. It is important to note, however, that the Certificate of Mailing sent by the court will always contain the hyperlink.

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**Issue:** For trustees who also practice as attorneys, they get their BNC mailings with items to them as trustees, and as attorneys in the same BNC envelope.

**Answer:** These are sent in this manner from BNC to save postage.

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**Issue:** Interim Reports (Forms 1 and Forms 2) have detailed private banking information and account numbers. It was requested that this information not be part of the accessible ECF file. It was requested that only the judge have access to this information.

**Answer:** Chuck Tucker said his office would check with the trustee's software vendor about the possibility of redacting the account numbers from the trustee's electronically filed Interim Reports. Or if that is not possible, that the UST would discuss with the Judges other options for providing the Interim Report while protecting the account number information. UST will also inquire of other UST offices if they have addressed similar privacy issues for trustee account numbers.

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**Issue:** E-mails that say "Certificate of Mailing" do not tell the document filed, and provide frustration because the user has to click on the document to know what was filed.

**Answer:** In order to provide this functionality, the court would have to create a "certificate of service event" for every possible pleading that could be filed on the system. This isn't logistically possible. The court has, however, created some specific certificate of service events such as "BNC Certificate of Mailing - Meeting of Creditors," "BNC Certificate of Mailing - Hearing," and "BNC Certificate of Mailing - Order of Discharge." If you would like additional pleadings to have a specific certificate of mailing event attached to them, please recommend the specific pleadings/notices at the next meeting. We will then review to see if the addition of the event is possible.

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**Issue:** It was requested that when we revise the Administrative Procedures, we consider requiring that in the signature block, the user also be required to put his/her e-mail address; or pass a Local Rule requiring that in the signature block, his/her name, address, bar number and e-mail address be included.

**Answer:** This request will be passed on to the judges.

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**Issue:** It was requested that the Clerk's Office look into the capability of having an actual "time/date" stamp on all pleadings electronically filed.

**Answer:** We do not know of any court that has found a way to modify the PDF as it is being electronically filed by an attorney into the ECF System. This request is valid, and we will continue to look for technologies that may allow courts to do this.

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**Issue:** Rule 5, Certificate of Service, requires mailing. It was requested that we stop the mailing requirement, or do a Local Rule that designates e-mail only. There was discussion on the e-mail process, and whether hard copies were required to be mailed. It was determined by the group that sending the e-mail meets the "mailing" requirement already, and no change is needed.

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**Issue:** When a user is filing Schedules D, E, F, a question pops up on the screen asking "Are you amending Schedule D, E or F?" It was pointed out that the screen instead should ask something like "Are you adding or deleting Creditors?"

**Solution:** The Clerk's Office Systems Department is working to modify the screen wording.

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**Issue:** When an order is e-mailed to a judge and signed by everyone, should the attorney print it out and hard copy mail the order to opposing counsel and the United States Trustee? The group consensus was no, since both opposing counsel and the UST receive the same order via e-mail.

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**Issue:** When a user has Explorer 6.0 or above, they seem to be unable to get the proper "pay" screen.

**Answer:** Although Internet Explorer 6.0 or above is not on the approved ECF browser list, the Clerk's Office Systems Department has done extensive testing on Version 6 and believes it will work properly with ECF. If an attorney is experiencing problems, he/she should contact the ECF Help Desk at (501) 918-5590.

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**Issue:** When printing documents from Pacer, the 2<sup>nd</sup> printed page simply tells the user they are being billed. But they still get charged the 7 cents for the

sheet telling them they were billed.

**Answer:** When viewing documents, PACER calculates the number of pages first and then displays a prompt letting the user know how many pages are going to be displayed and what the cost is. The user can then choose whether or not to proceed and be charged. The Clerk's Office Systems Department has reviewed this situation and has not been able to find any inconsistency in the number of pages billed vs. the number of pages viewed. If this happens, please let us know about the incident and tell us the case number of the problem document, and we will investigate further. One thing to note: When printing reports, it appears that the reports might be one page long, but in fact, PACER bills reports on the number of lines per report. Their charge for viewing reports is .07 for 54 lines of text.

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**Comment:** There was a comment made about the ease of ECF and how fast the judges are now able to sign and send orders. There were compliments on the efficiency of the CM-ECF system.

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**Issue:** The issue was raised as to how many first meetings debtors could miss, and a discussion of the local practice of granting an automatic continuance for the first non-appearance and how this non-appearance prejudiced creditors who had appeared and had to return for usually two more meetings before the case would be dismissed. The discussion then evolved into a discussion of certain debtor's attorneys who take advantage of the procedure to simply not appear and to direct their clients not to appear.

**Answer:** There was discussion about the "three meetings you're out rule" and it was mentioned that creditors could perhaps ask for an award of costs, or that consideration could be given to eliminating or modifying application of that unwritten rule. Chuck Tucker asked that attorney non appearance, or otherwise abusing the system, be referred to him.

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**Issue:** For one user running Microsoft XP, the user did not receive the correct link, and therefore did not get their first "free look."

**Answer:** When e-mails do not contain the hyperlink to the desired document, this could be caused by the user's e-mail provider. If you are experiencing this issue, please contact the ECF Help Desk at (501) 918-5590.

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**Issue:** There was a complaint that debtor's counsel does not receive a follow-up response from the UST Office after the UST has made a formal 707(b) inquiry concerning a debtor.

**Solution:** Chuck Tucker said the AUST would implement procedures to advise debtor's counsel when a decision is made not to pursue a 707(b) action following a written inquiry and/or a 2004 Exam.

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**Issue:** The issue of Negative Noticing in Chapter 13 cases was discussed at length during the luncheon preceding the meeting. All parties agree that Negative Noticing is working well in Chapter 7 cases. At the meeting itself, a vote was taken of committee members as whether to request the judges continue Negative Noticing in Chapter 13, or to request the judges discontinue. Only two committee members voted to continue Negative Noticing in Chapter 13 cases. There was discussion as to whether Negative Noticing in Chapter 13 works better in the Western District than the Eastern District.

**Answer:** This issue has been referred to the judges for their consideration.

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**Issue not raised at meeting, but e-mailed to Jean following the meeting:**

It was requested that the Judge come more often to Texarkana, or hold conferences for motions for relief.

**Answer:** This request will be passed on to Judge Mixon for his consideration.

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The committee discussed putting the notes from this meeting in the Debtor Creditor Bar Newsletter, posting them on the court's website, and Bill Clark offered to e-mail them to the Washington County Bar.

The committee will meet again March 26, 2004 at 1:00 pm in Ft. Smith. Ray Fulmer graciously offered his office conference room for our meeting space in March. The committee will meet for a dutch treat lunch at Rolando's at noon in Ft. Smith March 26<sup>th</sup>, then meet at Ray Fulmer's office at 1:00 pm.